

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5552 of 2007

09.4.2007

Between:

P.Raja Rao, S/o.Lingaiah

And others

... Petitioners

AND

The Government of Andhra Pradesh, represented by its

Principal Secretary, Revenue Department, Secretariat, Hyderabad

And another

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5552 of 2007

ORDER:

The petitioners, who are 49 in number, are statedly legal heirs of Pittala Rajanna. All of them constitute Hindu undivided joint family. They allege that Pittala Rajanna constructed a house in the land admeasuring 700 Sq.yards in T.S.No.5, Block-L, Ward No.41 of Hyderabad. Another house on the land admeasuring 880 Sq.yards bearing House No.11-1-437 to 440 situated at Bhoiguda, Aghapura, Nampally village. They also traced their title through Pittala Rajanna. A reference is also made to the suits and appeals in proof of allegation that over fifty years the land has been claimed by the ancestors of the petitioners and that the land is private land. It is alleged that on 13.12.2006 the third respondent herein – Mandal Revenue Officer, Nampally Mandal (MRO); came with police and demolished compound wall of the property alleging that the petitioners tried to encroach upon the Government land. Therefore, they filed the present writ petition seeking a writ of Mandamus declaring the action of the respondents in demolishing the compound wall as illegal and arbitrary, and for a consequential direction not to interfere with their possession.

At the stage of admission itself, the MRO filed a counter affidavit. It is stated that the land admeasuring 1300 Sq.mts in T.S.No.5, Ward No.41, Block-L with a structure on 309 Sq.mts is classified as sarkari poramboke and recorded as Government land. It is also alleged that the entire vacant land including old structure on the property is in possession of the Government. While so, the petitioners tried to encroach upon the land by raising compound wall with hallow bricks and, therefore, necessary steps were taken immediately to remove the compound wall with the assistance of the Land Protection Officer, Hyderabad District. It is asserted that the existing old structure was not

disturbed. It is alleged that few days prior to 13.12.2006, petitioners constructed the compound wall without obtaining necessary permission from the second respondent or Municipal Corporation of Hyderabad (MCH) so as to usurp the vacant land belonging to the Government. It is further alleged that the entire occupation by the petitioners is encroachment and necessary action would be taken under the provisions of A.P. Land Encroachment Act, 1905 (the Act, for brevity).

Learned Counsel for the petitioners submits that the plea that the land belonging to the Government is belied by the extract of Town Survey Land Register (TSLR), column No.23 of which shows the names of the ancestors of the petitioners as occupiers. He also points out that column No.4 also mentions the house No.11-1-437/1 to 441 is in occupation of the petitioners and, therefore, the respondents cannot interfere with the possession of the petitioners' property. Secondly, he would urge that as the petitioners or their ancestors have been in possession of the property and constructed the house after obtaining necessary permission from the MCH in 1951, any resort to summary proceedings under the Act is not warranted as held by the Supreme

Court in **Govt. of A.P. v Thummala Krishna Rao**^[1]. Lastly he submits that even if there is a claim by the Government, the action of the third respondent in demolishing the compound wall without any notice or without due process of law cannot be sustained. **Opposing** the writ petition, learned Assistant Government Pleader for Revenue (General-T) submits that the petitioners cannot claim the ownership of the property even if the house number is mentioned in column No.4 and the names of the ancestors of the petitioners are mentioned in column No.23 of TSLR. He submits that in column Nos.6 and 7 as well as in column No.20, the land is shown as Government land and mentioning of the names of the ancestors of the petitioners in column No.23 is not clinching to infer that the land is private land. He has also produced the original TSLR to show that column No.20 shows that it is a Government land. Justifying the action taken by the third respondent, he submits that as the petitioners tried to encroach upon the land by constructing a compound wall, they were prevented and the compound wall constructed few days prior to 13.12.2006 was demolished.

After perusing the original TSLR produced before this Court, this Court finds substance in the submission of the learned Assistant Government pleader that except in column No.23, in the relevant columns, namely, column Nos.6, 7 and 20, name of any private occupier is not found. In remarks column i.e., column No.23, the

names of the ancestors of the petitioners are found mentioned. Therefore, the TSLR cannot clinchingly support the case of the petitioners. Secondly, though it is averred that the petitioners are not in possession of the Government vacant land, there is no specific denial that the petitioners are in possession of the old structure existing on the land. Therefore, if for any reason the petitioners are to be evicted, the respondents have to follow due process of law either by filing a case under A.P. Land Grabbing (Prohibition) Act, 1982, or by taking necessary action under the Act. This Court observes that the action taken by the Land Protection Officer, Hyderabad District at the behest of the third respondent, in removing the compound wall in high-handed manner, cannot be appreciated, and in future such type such type of high handed action may be avoided. This Court also observes that unless and until appropriate action is taken against the petitioners, the respondents are precluded from dispossessing them from the house bearing Nos.11-1-437 to 441.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

April 09, 2007.

NOTE:

Dispatch order copy by

13.4.2007.

(By order)

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[\[1\]](#) AIR 1982 SC 1081